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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/775,975	02/09/2004	John Crane	Adpac/Child Safety Clip	2162
22536	7590	05/04/2005	EXAMINER	
KNECHTEL DEMEUR & SAMLAN ATTN: ALAN B. SAMLAN 222 S. RIVERSIDE, SUITE 1410 CHICAGO, IL 60606			BRITTAIN, JAMES R	
			ART UNIT	PAPER NUMBER
			3677	

DATE MAILED: 05/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/775,975	<b>Applicant(s)</b> CRANE ET AL.	
	<b>Examiner</b> James R. Brittain	<b>Art Unit</b> 3677	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>02092004</u> . | 6) <input type="checkbox"/> Other: ____  |

*[Handwritten mark]*

## **DETAILED ACTION**

### ***Priority***

Applicant seeks priority under 35 U.S.C. 120 based upon provisional application 60/524,149, filed November 20, 2003. Priority is not granted because 35 U.S.C. 120 does not have provision for priority based on provisional applications.

If applicant desires benefit of a previously filed application under 35 U.S.C. 119(e), specific reference to the earlier filed application must be made in the instant application. For benefit claims under 35 U.S.C. 120, 121 or 365(c), the reference must include the relationship (i.e., continuation, divisional, or continuation-in-part) of the applications. This should appear as the first sentence(s) of the specification following the title, preferably as a separate paragraph unless it appears in an application data sheet. The status of nonprovisional parent application(s) (whether patented or abandoned) should also be included. If a parent application has become a patent, the expression "now Patent No. \_\_\_\_" should follow the filing date of the parent application. If a parent application has become abandoned, the expression "now abandoned" should follow the filing date of the parent application.

If the application is a utility or plant application filed under 35 U.S.C. 111(a) on or after November 29, 2000, the specific reference must be submitted during the pendency of the application and within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior application. If the application is a utility or plant application which entered the national stage from an international application filed on or after November 29, 2000, after compliance with 35 U.S.C. 371, the specific reference must be submitted during the pendency of the application and within the later of four months from the

Art Unit: 3677

date on which the national stage commenced under 35 U.S.C. 371(b) or (f) or sixteen months from the filing date of the prior application. See 37 CFR 1.78(a)(2)(ii) and (a)(5)(ii). This time period is not extendable and a failure to submit the reference required by 35 U.S.C. 119(e) and/or 120, where applicable, within this time period is considered a waiver of any benefit of such prior application(s) under 35 U.S.C. 119(e), 120, 121 and 365(c). A benefit claim filed after the required time period may be accepted if it is accompanied by a grantable petition to accept an unintentionally delayed benefit claim under 35 U.S.C. 119(e), 120, 121 and 365(c). The petition must be accompanied by (1) the reference required by 35 U.S.C. 120 or 119(e) and 37 CFR 1.78(a)(2) or (a)(5) to the prior application (unless previously submitted), (2) a surcharge under 37 CFR 1.17(t), and (3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2) or (a)(5) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional. The petition should be addressed to: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

### ***Claim Objections***

Claim 15 are objected to because of the following informalities: The term "the opposite end of the base" (lines 4, 9) lacks clear antecedent basis and is therefore undefined. Appropriate correction is required.

### ***Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-16 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

The claims identify a “first means for opening and closing the loop in each opposed end” (claim 1, line 4); “a second means for opening the loop in each opposed end” (claim 1, line 6); “means for opening and closing the second loop” (claim 6, line 11); “means for opening and closing the latch of the first loop” (claim 15, line 7); “means for opening and closing the clasp of the second loop” (claim 15, line 12); “means for opening and closing the latch of the first loop to receive or release an item” (claim 16, line 5); and “means for opening and closing the clasp of the second loop to receive or release a carrying article” (claim 16, lines 8-9). Each of these invokes 35 U.S.C. 112, sixth paragraph, which indicates the claims cover those structures identified in the specification that perform the function of “opening” a loop, “opening” and “closing” a loop, or “opening” and “closing” a latch or clasp of a loop. The specification clearly indicates that a human being is the “structure” performing these functions as it is the user who applies the force, as indicated in the summary of the invention. There is no mechanical linkage or tool disclosed as performing the identified functions, only a human being. While it is assumed that it was not applicant’s intent to claim a human being, the rejection is made because the scope of the claims is identified in the specification as covering in combination a human being and is therefore non-patentable subject matter.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Art Unit: 3677

Claims 1-16 are rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The claims identify a “first means for opening and closing the loop in each opposed end” (claim 1, line 4); “a second means for opening the loop in each opposed end” (claim 1, line 6); “means for opening and closing the second loop” (claim 6, line 11); “means for opening and closing the latch of the first loop” (claim 15, line 7); “means for opening and closing the clasp of the second loop” (claim 15, line 12); “means for opening and closing the latch of the first loop to receive or release an item” (claim 16, line 5); and “means for opening and closing the clasp of the second loop to receive or release a carrying article” (claim 16, lines 8-9). The functions of “opening” and “closing” can only be effected by a person and it is not particularly pointed out how a “latch” or “force” can comprising a structure that opens or closes a loop. A force is not a structure and a latch is a means for locking, not a means for opening and closing.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-16 are rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The claims identify a “first means for opening and closing the loop in each opposed end” (claim 1, line 4); “a second means for opening the loop in each opposed end” (claim 1, line 6); “means for opening and closing the second loop” (claim 6, line 11); “means for opening and

Art Unit: 3677

closing the latch of the first loop” (claim 15, line 7); “means for opening and closing the clasp of the second loop” (claim 15, line 12); “means for opening and closing the latch of the first loop to receive or release an item” (claim 16, line 5); and “means for opening and closing the clasp of the second loop to receive or release a carrying article” (claim 16, lines 8-9). The functions of “opening” and “closing” can only be effected by a person and it is not particularly pointed out how a “latch” or “force” can comprising a structure that opens or closes a loop. A force is not a structure and a latch is a means for locking, not a means for opening and closing. The scope of the quoted passages is therefore not clear since 35 U.S.C. 112, sixth paragraph, requires the means plus function language to describe structures and it appears that applicant is utilizing the language in an effort to cover forces (claim 5), structures as in a latch and human beings. Forces and human beings are not patentable, so the scope of the claims is not clear.

The terms “its original orientation for closing” (claim 1, lines 8-9), “its original orientation” (claim 6, lines 15-16), “its original shape” (claim 15, lines 16-17 and claim 16, lines 14-15) lacks clear antecedent basis so it is unclear what state is being claimed as the original orientation or shape and therefore what the final orientation and shape comprises and is therefore undefined and of unknown scope. It is unclear what is being claimed. The remaining claims are rejected because they depend from claims that are rejected.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. §102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 5-9, 13 and 15 are rejected under 35 U.S.C. §102(b) as being clearly anticipated by Santucci (US 3432129).

Santucci (figures 1, 2, 4) teaches a clip 10 inherently usable as a safety clip in the environment of a child comprising an elongated member having two opposed ends, each opposed end forming a loop therein; first means in the form of a person for opening and closing the loop in each opposed end by manipulating the latch elements 44, 32; 46, 34 ; whereby, the elongated member enabling the two opposed ends to deform upon the application of a second means in the form of a person for opening the loop in each opposed end by manipulating the latch elements 44, 32; 46, 34, the deformation of the elongated member dependent upon the second means for opening and, upon the person releasing the hook, the elongated member assuming its original orientation for closing and continued use. In regard to claim 2, while the user must open and close the loop, Santucci shows a latch to maintain the loop in the closed configuration. As to claim 5, it is inherent that force must be used to open the loop since manual manipulation is used.

In regard to claim 6, Santucci teaches a clip 10 inherently usable as a safety clip in the environment of a child comprising a base having two opposed sides; a first member extending outwardly from one of the two opposed sides, the left side as shown in figure 2, the first member forming a first loop; a latch formed in the first loop for opening and closing the first loop, the latch comprised of a first latch member and a second latch member, the first latch member and the second latch member connecting to form a closed position and separating to form an open position; a second member extending outwardly from the other of the two opposed sides, the right side as shown in figure 2, the second member forming a second loop; means for opening and closing the second loop in the form of the user; and whereby, upon the application of a force,



Art Unit: 3677

the first member deforms causing the first latch member and the second latch member to separate from the closed position to the open position, the degree of separation between the first and second latch members dependent upon the magnitude of the force and, upon release of the force, the first member assuming its original orientation with the latch returning to the closed position.

As to claim 15, Santucci teaches a clip 10 inherently usable as a safety clip in the environment of a child comprising a base 12 having two opposed sides; a first member extending outwardly from one of the two opposed sides, the left side, the first member having an anchoring loop at the opposite end of the base for anchoring to an item with a closed loop; a latch formed in the anchoring loop; means for opening and closing the latch of the first loop in the form of the user; a second member extending outwardly from the other of the two opposed sides, the right side, the second member having a holding loop at the opposite end of the base for carrying a desired article; a clasp formed in the second loop; means for opening and closing the clasp of the second loop in the form of the user; whereby, upon the application of a force, the latch deforms creating an opening in the anchoring loop thereby releasing the item and the clasp deforms creating an opening in the holding loop thereby releasing the desired article without either the first member or the second member breaking, the first and second member having memory to return to its original shape.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. §103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 3 is rejected under 35 U.S.C. §103(a) as being unpatentable over Santucci (US 3432129) in view of Joubert et al. (US 4380101).

Santucci (figures 1, 2, 4) teaches a clip 10 inherently usable because of the latch as a safety clip in the environment of a child comprising an elongated member having two opposed ends, each opposed end forming a loop therein; first means in the form of a person for opening and closing the loop in each opposed end by manipulating the latch elements 44, 32; 46, 34 ; whereby, the elongated member enabling the two opposed ends to deform upon the application of a second means in the form of a person for opening the loop in each opposed end by manipulating the latch elements 44, 32; 46, 34, the deformation of the elongated member dependent upon the second means for opening and, upon the person releasing the hook, the elongated member assuming its original orientation for closing and continued use. The difference is that the latch is not formed by two ends with the first end having a pair of opposed wedge extensions forming a channel between them and the second end having a protruding member, the protruding member of the second end being received into the channel between the pair of opposed wedges for releasably retaining the protruding member in the channel. However, Joubert et al. (figures 1-3) teaches clip structure with a first end defining having a pair of opposed wedge extensions forming a V-shaped channel 38 between them and the second end having a protruding member, the protruding member being received into the V-shaped channel between the pair of opposed wedges for releasably retaining the protruding member in the channel so as to better secure the clip by providing guidance of the latch elements together.

Claims 4 and 10-12 are rejected under 35 U.S.C. §103(a) as being unpatentable over Santucci (US 3432129) in view of Maillocheau (US 3748703).

Santucci (figures 1, 2, 4) teaches a clip 10 inherently usable because of the latch as a safety clip in the environment of a child comprising an elongated member having two opposed ends, each opposed end forming a loop therein; first means in the form of a person for opening and closing the loop in each opposed end by manipulating the latch elements 44, 32; 46, 34 ; whereby, the elongated member enabling the two opposed ends to deform upon the application of a second means in the form of a person for opening the loop in each opposed end by manipulating the latch elements 44, 32; 46, 34, the deformation of the elongated member dependent upon the second means for opening and, upon the person releasing the hook, the elongated member assuming its original orientation for closing and continued use. The difference is that the latch is not a pair of reciprocal U-shaped jaws for closing the loop. However, Maillocheau (figure 1) teaches that it is desirable to close a loop with a pair of U-shaped jaws so as to better secure the loop together.

Claim 14 is rejected under 35 U.S.C. §103(a) as being unpatentable over Santucci (US 3432129) in view of Covert (US 1149248).

Santucci teaches a clip 10 inherently usable as a safety clip in the environment of a child comprising a base having two opposed sides; a first member extending outwardly from one of the two opposed sides, the left side as shown in figure 2, the first member forming a first loop; a latch formed in the first loop for opening and closing the first loop, the latch comprised of a first latch member and a second latch member, the first latch member and the second latch member connecting to form a closed position and separating to form an open position; a second member extending outwardly from the other of the two opposed sides, the right side as shown in figure 2, the second member forming a second loop; means for opening and closing the second loop in the

form of the user; and whereby, upon the application of a force, the first member deforms causing the first latch member and the second latch member to separate from the closed position to the open position, the degree of separation between the first and second latch members dependent upon the magnitude of the force and, upon release of the force, the first member assuming its original orientation with the latch returning to the closed position. The difference is that the clips don't taper outwardly. It would have been obvious to modify the clip of Santucci so that the clips taper outwardly in view of Covert (figures 6, 9) in which the hook 22 tapers outwardly from the base so as to form a stronger hook.

Claim 16 is rejected under 35 U.S.C. §103(a) as being unpatentable over Santucci (US 3432129) in view of Lindquist et al. (US 2676380).

Santucci teaches a clip 10 inherently usable as a safety clip in the environment of a child comprising an elongated member having a first portion and a second portion; the first portion having a deformable hook and an arm for forming a first loop; a latch formed in the first loop; means for opening and closing the latch of the first loop to receive or release an item in the form of the user; the second portion forming a second loop; a deformable clasp formed in the second loop; means for opening and closing the clasp of the second loop to receive or release a carrying article in the form of the user; whereby, upon the application of a force, the hook and the arm of the first portion deforms causing a first opening in the first loop at the latch to release the item and the clasp of the second portion deforms causing a second opening in the second loop to release the carrying article, the first portion and the second portion succumbing to the application of the force without breaking, the first and second portions having memory to return to its original shape. The difference is that the form of the second loop is not two finger projections

and a ring. However, it would have been obvious to utilize such a geometry in view of Lindquist et al. (figures 1, 3) teaching the use of two finger projections and a ring to form a more controlled connection.

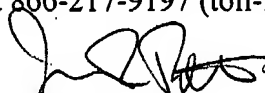
***Conclusion***

The patents of Bakker et al. (US 4464813, figures 7-10), Hachmann (US 1189199, figures 1, 2), Henningsson et al. (US 5469607, figures 8, 9) and Westwood, III (US 5913479, figure 4a) teach pertinent fastener structure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James R. Brittain whose telephone number is (571) 272-7065. The examiner can normally be reached on M-F 5:30-2:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. J. Swann can be reached on (571) 272-7075. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
James R. Brittain  
Primary Examiner  
Art Unit 3677

JRB